

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6644 of 2021

1. Rupesh Yadav S/o Pyarelal Yadav, Aged About 25 Years,
 2. Umesh Yadav S/o Pyarelal Yadav, Aged About 20 Years,
- Both are R/o Ward No. 7, Bazaar Chowk, Sirsakhurd Chowki, Jevra Sirsa, District- Durg (Chhattisgarh).
3. Hitesh Pandey S/o Lachchhu Pandey, Aged About 22 Years, R/o Pandeypara, Sirsakhurd, Chowki, Jevra Sirsa, District Durg, (Chhattisgarh).
 4. Ghanshyam S/o Dashrath Kumbhkar, Aged About 27 Years, R/o Pandeypara, Sirsakhurd Chowki, Jevra Sirsa, District Durg (Chhattisgarh).
 5. Kuldeep Yadav S/o Gendlal Yadav, Aged About 26 Years, R/o Ward No. 7, Sirsakhurd Chowki, Jevra Sirsa, District Durg (Chhattisgarh).

---- Applicants

Versus

1. State Of Chhattisgarh, Through District Magistrate, Durg (Chhattisgarh).

---- Non-Applicant

For Applicants : Mr. Amiyakant Tiwari and Mr. Galib Dwivedi,
Advocates

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

25/10/2021

- 1) Heard.
- 2) This is the **First Bail Application** of applicants filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. They are in jail since 09.07.2021 in connection with Crime No. 259/2021 registered at Police Station Pulgaon, District Durg (C.G.) for the offence punishable under Sections 302, 147, 427 & 323 of IPC.
- 3) As per the prosecution case on 07/07/2021 during the marriage program of daughter of Nand Kumar Yadav, some dispute arose

between the family members of Bride & the Bridegroom. During the said quarrel the applicants assaulted Guests (*Barati*), damaged their Bus and co-accused Sanjay Yadav assaulted Hemchand Yadav with a sharp edged weapon as a result of which he died on the spot.

- 4) Learned counsel for the applicants submits that the applicants have been falsely implicated in the crime in question. Even if the entire prosecution case is taken as it is, no offence as alleged against the applicants is made out. The FIR has been lodged belatedly without any plausible explanation. He submits that there is no likelihood of the applicants tampering with the prosecution evidence or absconding. The applicants are in jail since 09.07.2021, charge sheet has already been filed and conclusion of trial is likely to take some time for disposal. Therefore, the applicants be released on bail by this Court.
- 5) On the other hand, learned counsel for the Non-applicant/State opposes the bail application.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the entire memorandum of the co-accused Sanjay Yadav and the statement of other eye witnesses which revealed that the fatal assault was made by co-accused Sanjay Yadav on the deceased as a result of which he died, the nature of allegation against the applicants, the detention period of the applicants, who are 25, 20, 22, 27 & 26 years old, charge sheet has already been filed and the fact that there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, the application is **allowed**.
- 8) It is directed that in the event of **each** of the applicants executing a personal bond for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- **each** to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- (a) they shall not directly or indirectly make any inducement,threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (c) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial,
- (d) they shall not involve themselves in any offence of similar nature in future,
- (e) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/ Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

-Sd/-
(Gautam Chourdiya)
Judge

Chandrakant